

Office of Chief Counsel
Internal Revenue Service

memorandum

TL-N-6804-99
JForsberg

date: November 19, 1999

to: Technical Support Branch, ESB
North Central District
Attn: Narnina Ford

from: District Counsel, North Central District

subject: [REDACTED]
Cash Bonds

Our advice has been requested as to the date on which interest will cease to accrue on liabilities satisfied by the application of certain cash bonds under the facts set forth below. Under the present facts, we are of the opinion that interest will cease to accrue on the liabilities satisfied by the cash bonds as of [REDACTED], the date the cash bonds were received.

FACTS

On or about [REDACTED], the taxpayer made deposits in the nature cash bonds for the tax years [REDACTED], [REDACTED], and [REDACTED] in the following amounts:

<u>Taxable Year</u>	<u>Amount</u>
[REDACTED]	\$ [REDACTED]
[REDACTED]	[REDACTED]

[REDACTED], the taxpayer signed a partial agreement for [REDACTED], [REDACTED], and [REDACTED]. Simultaneously, the taxpayer requested that \$ [REDACTED] of the cash bond for [REDACTED] and \$ [REDACTED] of the cash bond for [REDACTED] be applied to its [REDACTED] liabilities. Subsequently, due to an interest recomputation, the amount applied to the taxpayer's [REDACTED] liability from the [REDACTED] and [REDACTED] cash bonds was reduced to \$ [REDACTED] and \$ [REDACTED], respectively. The cash bonds were transferred to the taxpayer's [REDACTED] account with their original payment dates of [REDACTED]. On [REDACTED], a deficiency in tax of \$ [REDACTED] and interest thereon of \$ [REDACTED] (computed to [REDACTED]) was assessed for [REDACTED] pursuant to the partial agreement.

In [REDACTED], the taxpayer made a second request to reallocate the [REDACTED], [REDACTED], and [REDACTED] cash bonds. This time the taxpayer requested that (1) the \$ [REDACTED] of the [REDACTED] cash bond previously applied to [REDACTED] be reapplied [REDACTED], (2) the \$ [REDACTED] of the [REDACTED] cash bond previously applied to [REDACTED] be reapplied [REDACTED], and that (3) \$ [REDACTED] of the [REDACTED] cash bond be transferred to [REDACTED].

On [REDACTED], an abatement of tax for [REDACTED] was made in the amount of \$ [REDACTED] based on a claim for refund filed by the taxpayer.

DISCUSSION

Rev. Proc. 84-58, 1984-2 C.B. 501 sets forth procedures by which taxpayers can make remittances to stop the running of interest on deficiencies. Paragraph 4 of section 4.02 of Rev. Proc. 84-58 provides:

A taxpayer may elect to have a deposit in the nature of a cash bond that exceeds the amount of tax ultimately determined to be due applied against another assessed or unassessed liability, subject to the provisions of subparagraph 1 of this section. Thus, a taxpayer under examination for several different years may request that a deposit made for one year be applied to another year.

Section 5.01 of Rev. Proc. 84-58 provides:

The running of interest on an assessed tax liability satisfied by application of a remittance (whether it was treated as a "payment of tax" or a "deposit in the nature of a cash bond") will stop on the date the remittance is received by the Service, regardless of when the liability is assessed or the remittance actually applied against the taxpayer's account.

Section 5.05 of Rev. Proc. 84-58 provides that in the case of a cash bond which is posted to a taxpayer's account as a payment of tax, interest will run on an overpayment later determined only from the date the cash bond was posted as a payment of tax.

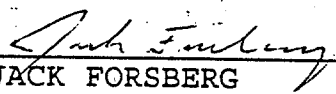
Under Rev. Proc. 84-58, for purposes of stopping the accrual of interest on a taxpayer's liabilities, the payment date of a cash bond applied against the taxpayer's liabilities will be the date the cash bond was originally received by the Service, not the date the cash bond was applied as a payment. In our view, the fact that a cash bond is ultimately applied to a different year than that to

which the taxpayer originally requested it be applied it does not change the result as long as the Service has had continuous possession of the payment. Thus, in our view the portion of the [REDACTED] cash bond reapplied to [REDACTED], the portion of the [REDACTED] cash bond reapplied [REDACTED], and the portion of the [REDACTED] cash bond transferred to [REDACTED] will retain a payment date of [REDACTED], when applied to satisfy the taxpayer's liabilities for those years. We note, however, that should any portion of any of the cash bonds at any time be refunded as an overpayment, to the extent applicable to the cash bond, interest on the overpayment would accrue only from the date the bond was applied as a payment.

If you have any questions respecting this matter, please call Jack Forsberg at 290-3473, ext. 227.

REID M. HUEY
District Counsel

By:


JACK FORSBERG
Special Litigation Assistant

cc: Assistant Chief Counsel
(Field Service)